

MARTINE
PENILLA &
GENCARELLA, LLP



INTELLECTUAL
PROPERTY
COUNSEL

May 7, 2008

United States Patent and Trademark Office
Post Office 1450
Alexandria, Virginia 22313-1450

VIA FACSIMILE ONLY

Attention: Deposit Account Refunds

Re: U.S. Patent Application Entitled: SELECTION OF IMAGE DATA FOR OUTPUT
Application No. 10/665,679
Filing Date: September 19, 2003
Our Reference: MIPFP056
Deposit Account No. 50-0805

Gentlemen:

This letter is to request a refund for funds that were deducted in error from our deposit account, as the Election of Species for Prosecution on the Merits Papers were filed before the final due date.

We received an Office Action dated February 4, 2008. We believe that no fees were required in the filing of this Notice, as it was filed on March 5, 2008. Since February only has 29 days in it, we filed this within the 30 day due date. A copy of the Election of Species for Prosecution on the Merits as well as the Patent Postcard are enclosed for your reference.

We also enclose a copy of a computer printout of our Deposit Account Statement, dated March 2008. The Deposit Account Statement shows a debit dated March 31, 2008 regarding the above-identified patent application. The debit is as follows: \$120.00 for Fee Code 1251 (Extension for response within first month.)

As the amount described above should not have been charged to our account. Please refund our Deposit Account No. 50-0805 in the total amount of \$120.00 as soon as possible. Thank you for your assistance.

Sincerely,
MARTINE PENILLA & GENCARELLA, LLP


Michele Miyasaki
Assistant Office Manager

/mm
Enclosures

Deposit Account Statement

Page 1 of 4


**United States
Patent and
Trademark Office**
**Deposit Account Statement**

Requested Statement Month: March 2008
 Deposit Account Number: 500805
 Name: MARTINE, PENILLA & GENCARELLA
 Attention: PETER B. MARTINE
 Street Address 1: 710 LAKEWAY DRIVE
 Street Address 2: SUITE 170
 City: SUNNYVALE
 State: CA
 Zip: 94086
 Country: UNITED STATES

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
03/03	4	PCT/US07/24201		9204	-\$44.00	\$14,359.00
03/03	1	11381121	SONYP006C	1252	\$430.00	\$13,929.00
03/03	8879	10527285	MIPFP134	1614	\$210.00	\$13,719.00
03/04	6238	10892912	MIPFP102	1251	\$120.00	\$13,599.00
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03/04	7083	12041584	TELAP007	2311	\$105.00	\$13,164.00
03/04	7084	12041584	TELAP007	2202	\$125.00	\$13,039.00
03/04	7085	12041584	TELAP007	2201	\$105.00	\$12,934.00
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03/04	7166	60892982	TELAP007.TW	8007	\$20.00	\$12,874.00
03/04	12711	11953020	ASTGP152.TW	8007	\$20.00	\$12,854.00
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03/05	2930	12042119	LAM2P498D	1311	\$210.00	\$11,824.00
03/05	53	61065088	LAM2P609A+	1085	\$260.00	\$11,564.00
03/06	16	PAYMENT		9203	-\$50,000.00	\$61,584.00
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03/07	6737	12043923	INTMP009	1111	\$510.00	\$60,744.00
03/07	6739	12043923	INTMP009	1202	\$500.00	\$60,244.00
03/07	6738	12043923	INTMP009	1311	\$210.00	\$60,034.00
03/07	6866	29304740	YAHOP033D	1012	\$210.00	\$59,824.00
03/07	6869	29304740	YAHOP033D	1017	\$210.00	\$59,614.00
03/07	6867	29304740	YAHOP033D	1112	\$100.00	\$59,514.00
03/07	6868	29304740	YAHOP033D	1312	\$130.00	\$59,384.00
03/07	6893	29304741	YAHOP051D	1012	\$210.00	\$59,174.00

<https://ramps.uspto.gov/eran/Controller.jsessionid=0000mU2zrKh-Aa6gopGJ-kRwtuw:11g...> 5/7/2008

Deposit Account Statement

Page 2 of 4

03/07 6895	29304741	YAHOP051D	1312	\$130.00	\$59,044.00
03/07 6894	29304741	YAHOP051D	1112	\$100.00	\$58,944.00
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03/07 13	11245789	ADAPP284.C1	1251	\$120.00	\$58,494.00
03/07 12307	11562929	LAM2P462.CIP.KR	8007	\$20.00	\$58,474.00
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03/10 3011	12044537	LAM2P458.D	1311	\$210.00	\$57,144.00
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03/10 16567	10794927	MIPFP082	1251	\$120.00	\$56,329.00
03/11 7574	10448614	SONYP022	1801	\$810.00	\$55,519.00
03/11 12812	12037685	YAHOP041	8021	\$40.00	\$55,479.00
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03/13 2799	61013950	LAM2P628+	8021	\$40.00	\$55,239.00
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03/14 7378	61036438	XYRPX007+	1005	\$210.00	\$54,799.00
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03/14 7517	12048188	LAM2P617	1111	\$510.00	\$53,979.00
03/14 7518	12048188	LAM2P617	1311	\$210.00	\$53,769.00
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03/17 48	PCT/US08/02644	SONYP068.P	1703	\$13.00	\$51,376.00
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03/18 8082	12050128	SONYP072	1011	\$310.00	\$50,856.00
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03/20 4882 12051608	YAHOP046	1311	\$210.00	\$48,616.00
03/20 5362 12051608	YAHOP046	8021	\$40.00	\$48,576.00
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03/20 13200 11525278	LAM2P407C1	1814	\$130.00	\$46,711.00
03/24 1406 12053183	ALTEP157	1011	\$310.00	\$46,401.00
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03/24 1850 12053228	ADAPP293	1111	\$510.00	\$44,821.00
03/24 1851 12053228	ADAPP293	1311	\$210.00	\$44,611.00
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03/24 5840 29305538	YAHOP059D4	1012	\$210.00	\$41,581.00
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03/24 5846 29305539	YAHOP059D5	1112	\$100.00	\$41,041.00
03/24 5847 29305539	YAHOP059D5	1312	\$130.00	\$40,911.00
03/24 5849 29305540	YAHOP059D6	1012	\$210.00	\$40,701.00
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03/24 10090 29305536	YAHOP059D2	8021	\$40.00	\$39,951.00
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03/24 10369 29305538	YAHOP059D4	8021	\$40.00	\$39,871.00
03/24 10505 29305539	YAHOP059D5	8021	\$40.00	\$39,831.00

Deposit Account Statement

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03/24 10668 29305540	YAHOP059D6	8021	\$40.00	\$39,791.00
03/24 10830 29305541	YAHOP059D7	8021	\$40.00	\$39,751.00
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03/25 6911 12054311	LAM2P461.D	1111	\$510.00	\$38,931.00
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03/26 6461 10086270	ADAPP227	1401	\$510.00	\$35,591.00
03/28 6963 6796663	LTMSPO02	2551	\$465.00	\$35,126.00
03/27 26012 29295642	YAHOP028D	8021	\$40.00	\$35,086.00
03/28 8168 61040129	TELAP017+	2005	\$105.00	\$34,981.00
03/31 7171 11735984	LAM2P608.1	1464	\$130.00	\$34,851.00
03/31 7253 11735987	LAM2P608.2	1464	\$130.00	\$34,721.00
03/31 7360 11735989	LAM2P608.3	1464	\$130.00	\$34,591.00
03/31 7452 11735989	LAM2P608.3	8021	\$40.00	\$34,551.00
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03/31 7578 11735987	LAM2P608.2	8021	\$40.00	\$34,471.00
03/31 8455 PCT/US08/58790	LAM2P587.P	1601	\$300.00	\$34,171.00
03/31 8456 PCT/US08/58790	LAM2P587.P	1702	\$1,194.00	\$32,977.00
03/31 8457 PCT/US08/58790	LAM2P587.P	1709	\$244.00	\$32,733.00
03/31 1 10665679	MIPFP056	1251	\$120.00	\$32,613.00
03/31 15900 12059098	YAHOP050	1011	\$310.00	\$32,303.00
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START	SUM OF	SUM OF	END
BALANCE	CHARGES	REPLENISH	BALANCE
\$14,315.00	\$33,196.00	\$50,484.00	\$31,583.00

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PATENT POSTCARD - Customer No. 25920

Docket No. **MIPFP056** Appln. No. **10/665,679** Date **March 5, 2008**
By: **PBM:ds** Filing Date: **Sept. 19, 2003** Express Mail No.:
Inventors: **Ikuo Hayaishi and Takahiko Koizumi**
Title: **SELECTION OF IMAGE DATA FOR OUTPUT**

The following has been received in the U.S. Patent and Trademark Office on the date stamped below:

Election of Species for Prosecution on the Merits

PATENT

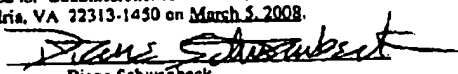
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Docket No. MIPFP056
Ikuo HAYAISHI et al.)	Examiner: P. Saunders
Application No. 10/665,679)	Group Art Unit: 2622
Filed: September 19, 2003)	Date: March 5, 2008
For: SELECTION OF IMAGE DATA FOR OUTPUT)	Confirmation No. 6260

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 5, 2008.

Signed:


Diane SchwanbeckELECTION OF SPECIES FOR PROSECUTION ON THE MERITS

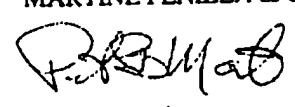
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants submit this paper in response to the Office Action dated February 4, 2008. Applicants respectfully traverse the election of species requirement as being improper because it was issued after the first action on the merits (Applicants note that 37 CFR 1.146 provides authority for the issuance of an election of species requirement only in the first action on an application). Nevertheless, in response to the election of species requirement, Applicants hereby elect the 3rd species identified by the Examiner (the embodiment shown in Figure 19) for prosecution on the merits. Applicants submit that at least claims 1, 2, 5-7, 16-18, 21-23, 32, and 33 read on the elected species.

If any fees are due to effect consideration of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP056).

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, LLP


Peter B. Martine
Registration No. 32,043

710 Lakeway Drive, Suite 200
Sunnyvale, California 94085
Telephone: (408) 749-6902
Customer Number 25920



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,679	09/19/2003	Ikuo Hayaishi	MIPFP056	6260

25920 7590 02/04/2008
MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

EXAMINER	
SAUNDERS, PAUL	

ART UNIT	PAPER NUMBER
1622	

MAIL DATE	DELIVERY MODE
02/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

Office Action Summary

Application No.

10/665,879

Applicant(s)

HAYAISHI ET AL.

Examiner

Paul Saunders

Art Unit

2622

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2007.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☒ Claim(s) 1-37 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

U.S. Patent and Trademark Office
PTOL-328 (Rev. 08-06)

Office Action Summary

Part of Paper No./Mail Date 20080125

Application/Control Number:
10/665,879
Art Unit: 2622

Page 2

DETAILED ACTION

The Applicant's response on 11/2/2007, to the Examiner's office action on 8/2/2007, has been received.

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species:

Species Figure

1 st	12
2 nd	16
3 rd	19
4 th	23
5 th	24
6 th	25
7 th	26
8 th	27
9 th	28

The species are independent or distinct because each species has multiple different steps for selecting or not selecting an image for output.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are no generic claims.

Application/Control Number:
10/665,679
Art Unit: 2622

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions

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unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

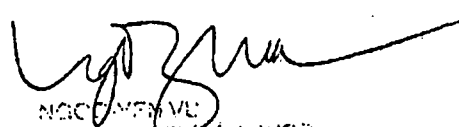
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Saunders whose telephone number is 571.270.3319. The examiner can normally be reached on Mon-Thur 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on 571.272.7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PS/


NGOCYEN VU
SUPERVISOR

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Wednesday, May 07, 2008

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Message:

Please see attached letter with copy of Election of Species for Prosecution on the Merits, Patent postcard and Deposit Account Statement